

ERIC K. WILLIAMS, and all those)
similarly situated,)
))
Plaintiffs,) **Case No.: 5:15-cv-01434-MHH**
))
v.) **CLASS ACTION**
))
STELLAR RECOVERY, INC.,)
))
Defendant.)

PLAINTIFF'S STATUS UPDATE

COMES NOW Plaintiff Eric K. Williams and hereby provides this Honorable Court an update on the status of this matter as follows:

Defendant John G. Schanck Served

This Honorable Court previously granted Plaintiff an extension to serve Defendant John G. Schanck with the Summons and Complaint in this action under F.R.C.P., Rule 4(m). Plaintiff was given until December 24, 2018 to obtain service on Schanck. Plaintiff employed a process service in Vancouver, Canada to attain service. Defendant John G. Schanck was personally served the Summons and Complaint in this matter on December 13, 2018. Return of service by writ and affidavit were provided to the Court on December 19, 2018. [Docs. 57-1; 57-2].

The Federal Rules of Civil Procedure permitted Defendant twenty-one days to respond to the complaint, or by January 4, 2019. Schanck has not yet responded to the complaint. However, given that Defendant was served during the holiday season when many people were out of town and attending to other matters accustomed to the season as well as being presently located in Vancouver, Canada, Plaintiff requests the Court to allow Defendant thirty (30) additional days to respond. This will allow Defendant ample time to retain counsel in this jurisdiction, if he desires, as well as avoid the strain on judicial resources if Plaintiff goes through the default process and Defendant files a motion to set aside the default. Thereafter, if Schanck fails to respond to the complaint, Plaintiff will move for default and request the Court to find liability in his favor and assess damages.

Stellar Recovery, Inc.

Plaintiff served a subpoena on the registered agent of Stellar Recovery on November 19, 2018. The registered agent responded to Plaintiff's subpoena stating it had no knowledge of the assets of Stellar Recovery or its creditors, only that Stellar Recover had been foreclosed upon on March 8, 2018. [See Exhibit A]. Plaintiff requests the Court allow the same amount of time, thirty days, as to which he requests the Court allow Defendant Schanck be given to respond to the

complaint to determine whether there are any viable avenues upon which to pursue Stellar Recovery given the information from the registered agent.

Respectfully submitted this 10th day of January, 2019.

s/Wesley L. Phillips
Wesley L. Phillips
Attorney for Plaintiff

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing document has been served on all parties/attorneys of record via the ECM/CF system this 10th day of January, 2019.

None.

s/Wesley L. Phillips
OF COUNSEL